IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

COMPLETE TITLE OF CASE

KAREN L. TADYCH,

Respondent,

v.

JOHN D. HORNER,

Appellant.

DOCKET NUMBER WD72408

MISSOURI COURT OF APPEALS WESTERN DISTRICT

DATE: March 8, 2011

APPEAL FROM

The Circuit Court of Jackson County, Missouri The Honorable J. Dale Youngs, Judge

JUDGES

Division One: Pfeiffer, P.J., and Newton and Ahuja, JJ.

CONCURRING.

ATTORNEYS

Tony V. Jones Kansas City, MO

Attorney for Respondent,

Dennis Owens Kansas City, MO

Attorney for Appellant.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

KAREN L. TADYCH,)	
	Respondent,)	
v.) OPINION FILED:	
) March 8, 2011	
JOHN D. HORNER,)	
)	
	Appellant.)	
WD72408			Jackson County

Before Division One Judges: Mark D. Pfeiffer, Presiding Judge, and

Thomas H. Newton and Alok Ahuja, Judges

John Horner appeals the judgment of the Circuit Court of Jackson County ordering the partition sale of property that he owned as a co-tenant with Karen Tadych and outlining the required disbursement of proceeds from that sale. On appeal, Horner argues that the trial court's judgment, particularly the trial court's disbursement award, is not supported by substantial evidence and is against the weight of the evidence. We disagree and affirm.

AFFIRMED.

DIVISION ONE HOLDS:

The object of the partition action was a parcel of land purchased by Horner and Tadych while they were living as husband and wife but were not legally married. The couple began construction of a home, but Tadych left while the construction was unfinished. At trial Horner contended that he had invested time and money worth over \$300,000 towards construction of the home. The trial court awarded him \$50,000 for improvements he had made to the property. In his single point on appeal, Horner argued that the amount of the trial court's award was contrary to the uncontroverted evidence he had provided of the value of his improvements.

In large part, Horner's "uncontroverted" evidence at trial required the trial court to weigh its credibility. The trial court weighed the credibility of Horner's evidence of the value of the improvements he had made to the property after Tadych's departure and concluded that Horner had met his burden of proving that he had performed \$50,000 of improvements to the property that were done in good faith, were necessary and substantial, materially enhanced the value of the property, and for which it was equitable to reimburse Horner for those improvements – but those improvements only. The trial court, simply put, did not find that Horner's evidence was either credible or substantial enough to support improvement reimbursements for any other claimed expenditures or hours of labor performed to improve the property. We affirm the trial court's judgment.

There was also a motion for attorney's fees filed by Tadych. But, as the work of Tadych's attorneys on appeal did not serve *both* parties' interests, the statutory authority relied upon by Tadych for an award of attorney's fees is inapplicable. Thus, the motion for attorney's fees is denied.

OPINION BY: Mark D. Pfeiffer, Presiding Judge

March 8, 2011

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.